IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/08/2003

CORAM

THE HONOURABLE MR. JUSTICE K.P.SIVASUBRAMANIAM

WRIT PETITION No.21269 OF 1994

The Management of
Arkonam Co-operative House
Mortgage Society,
represented by its Special
Officer, Arkonam, .. Petitioner

-Vs-

1. T.J.Rangappan

2. The Presiding Officer,
Labour Court,
Vellore. .. Respondents.

Petition filed under Article 226 of the Constitution of India
for the issue of a writ of certiorari as stated therein.

For petitioner : Mr.Kalyanasundaram,
Senior Counsel for
Mr.K.Radhakrishnan.
Mr.K.J.Bharathi Mohan

For first respondent : Mr.R.S.Pandiaraj.

:ORDER
The petitioner is the management of Arkonam Co-operative House Mortgage Society, hereinafter called the Management, seeking to quash the award of the Labour Court, Vellore, in I.D.No. 60 of 1992 dated 1.3.1994 by which the first respondent, hereinafter called the employee, was directed to be reinstated in service.

2. As I am inclined to allow the writ petition upholding the jurisdictional objection raised by the management, I am not dealing with the history of the case which commenced in the year 1972 when the charge memo was issued against the employee who was the then Secretary of the Society and all the subsequent proceedings which resulted in the impugned award by the Labour Court, nor the merits or demerits of the charges against the employee. The nature of charges as stated in the affidavit in support of the writ petition

are undoubtedly serious namely, of "removing documents and putting ante-dates on the instalments of the loan papers and of collecting money from the customers giving false hopes to them" etc. But having regard to the nature of disposal of the writ petition, it is not necessary to consider the merits and proof of the charges. Two jurisdictional objections were raised by learned Senior Counsel for the petitioner as follows:-
(A) The employee had filed an appeal before the President of the Apex Co-operative Society namely, Tamil Nadu Co-operative Society Limited, Chennai, and the appeal was rejected against him. The employee having availed the alternative remedy, the said order will operate as res judicata and he is also not entitled to approach the Labour Court after having exhausted the alternate remedy.

(B) The employee was the Secretary of the Society and the Secretary being the Chief Executive and his functions being purely the managerial and administrative, he is not a workman within the meaning of the word "workman" in the Industrial Disputes Act and hence, the Labour Court has no jurisdiction to entertain the dispute.

3. On the issue of res judicata and bar of invoking the jurisdiction of the Labour Court, having exhausted the alternative remedy, I am unable to sustain the objection by learned Senior Counsel for the management. The appeal which is referred to, is an internal appeal under the Bylaws to the President of the Apex Society. The President of the Tamil Nadu Co-operative Housing Society, Chennai, had disposed the appeal on 22.8.1974. The said appeal cannot be treated as an appeal or a remedy before an effective alternative forum which would be a bar to raise a dispute under the Industrial Disputes Act. The ruling relied upon by learned Senior Counsel in TIWARI, R.C. v. M.P.STATE CO-OP. MARKETING FEDERATION LTD. (1997 (II) C.T.C., 34), is not appropriate. In that case, the employee had appealed to the Co-operative Tribunal, an independent judicial forum as provided under the Co-operative Societies Act. It is only in the said background the Supreme Court held that the Labour Court will have no jurisdiction to decide the dispute relating to an order of dismissal which has already been decided by the Co-operative Tribunal and that hence the principle underlying res judicata will apply even though Section 11 C.P.C. may not directly apply. In the present case, the appeal has been disposed only by an authority prescribed as an Appellate Authority within the hierarchy of the administration of the Society and in terms of Bylaws. The President of the Apex Society who has disposed the appeal is a nonofficial. The said remedy availed by the employee is not even a statutory revision to the Registrar, available under Section 153 of the Act. Hence, I am unable to sustain the said contention.

4. The second objection is that the employee was not a workman within the meaning of the word "workman" under the Industrial Disputes Act. At this stage, it may be mentioned here that this issue was taken up as a preliminary issue before the Labour court along with the issue as to whether the domestic enquiry had been validly conducted by the management. By a

preliminary order dated 6.2.1990 the Labour Court held both the issues in favour of the employee holding that the enquiry was not valid and that there was no material to show that the employee was performing any managerial function so as to treat him as not a workman. Against the said preliminary order, the management filed W.P.No.16331 of 1990. The said writ petition was dismissed at the admission stage itself by order dated 18.10.1990 holding that it was not proper to press for preliminary orders before the Labour Court and take further proceedings as against the preliminary order. It was further held that if the award went against the management, notwithstanding the dismissal of the writ petition, the petitioner was entitled to raise all the contentions.

5. The employee being the Secretary of the Society, according to the management, is a person who was discharging managerial and administrative functions being the Chief Executive of the Society. The word "workman" is defined under Section 2(s) as follows:-

"2.(s) 'workman' means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person -

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the officer or by reason of the powers vested in him, functions mainly of a managerial nature."

6. Section 2(s)(iii) and (iv) excludes the applicability of the provision in respect of any employee who is employed mainly in a managerial or administrative capacity or any employee in a supervisory capacity receiving more than one thousand six hundred rupees per mensem or by reason of the powers vested on him, functions mainly of a managerial capacity. Such a person cannot invoke the provisions of the Act. Now let us examine the nature of powers and duties of the Secretary both from the angle of the provisions of the Tamil Nadu Cooperative Societies Act and the Bylaws of the petitioner's Society and I am inclined to hold that he is an officer who is mainly employed in managerial and administrative capacity for the following reasons:-

(I) It is not disputed that he is the Chief Executive and the highest Executive functionary of the Society. Above him are only the President and the Board of Directors who are all non-officials either elected or nominated.

(II) Under Section 2(19) of the Tamil Nadu Co-operative Societies Act, 1983, the expression "officer" is defined as including the President,

Vice-President, Managing Director, Secretary, Assistant Secretary, Member of the Board and any other person empowered under the Rules or Bylaws, to give directions in regard to the business of the registered Society. The above expression "officer" makes it very clear that the functions of the Secretary is mainly managerial and administrative in character being vested with the power to give directions to his subordinates as regards the business of the Society. Chapter VIII deals with the appointment of paid officers and servants, their recruitment, power to take disciplinary action against them, creation of Provident Fund, gratuity fund, etc. While in the case of Provident and Gratuity funds, the entire executive wing of the Society is described as "employees" (Sections 78 and 79) for all other purposes, two distinct categories are mentioned namely, paid officers and servants. Explanation-I to Section 73 excludes the non-officials namely, the President and Vice-President and Members of the Board who are either elected or nominated. Therefore, the Secretary and Assistant Secretary and any other persons empowered under the Rules or Bylaws, to give directions to their subordinates alone will fall under the category of "officers" under Section 2(19) and "paid officers" under Chapter VIII of the Act. Consequently, in terms of the provisions of the Tamil Nadu Co-operative Societies Act, the Secretary is a paid officer who is empowered to give directions in regard to the business of the Society and hence it follows that his duties are mainly managerial and administrative.

(III). Before the Labour Court, Bylaws of the Society was marked in the evidence as Ex.M.37. A perusal of the same discloses that the Secretary is the authority to receive applications for admission of members, for allotment of shares, to receive letters of resignation of the members of the Board of Directors. Under Clause 27(b) "he shall be responsible for executive administration of the Bank" subject only to the control of the President. He is the Officer to sue or be sued on behalf of the Bank and all bonds in favour of the Society shall be in his name. All applications for loans shall be made to the Secretary in the prescribed form. He shall be competent authority to sanction leave to all the employees in the Bank and in the case of the Secretary alone, the President shall be the authority. As regards the Authorities competent to award punishments on disciplinary proceedings, while the Secretary is the authority to impose punishments of fine and censure in the case of Supervisors, Senior Clerks and Junior Clerks, he is the authority to impose those punishments and also withholding the increment and suspension in the case of peons and Watchmen. In the case of disciplinary proceedings against the Secretary, it is pertinent to note that the President is the competent authority only to impose minor punishments of censure and withholding of increment. It is only the Board of Directors who can suspend or dismiss the Secretary. As against such orders it is only the President of the Apex Society namely, the Tamil Nadu Central Co-operative House Bank, who is the competent Appellate Authority. In the case of no other employee, the officer or servant of the Society, the President of the Apex Society, is held as the Appellate Authority. In the background of the above features, the approach of the Labour Court in having recorded a finding that the Secretary does not discharge any managerial or administrative functions, is in my opinion a glaring error apparent on the face of the record. The functions of the Secretary are purely managerial and administrative in character.

(IV). Learned counsel for the respondent/employee raised a contention that the Bylaw produced before the Labour Court under Ex.M.37 might not be the appropriate Bylaw which would have been applicable at the relevant point of time when the petitioner was holding the post and was charge-sheeted during the year 1972. The said submission which itself is hypothetical, is not only unfair to be raised at the stage of writ petition, but also improper to raise such a contention without the respondent himself being sure of what is the correct Rule applicable to him and without making any attempt to produce any Bylaw, if according to him, the Bylaws produced by the management was different. The objection by the petitioner/management as regards jurisdiction of the Labour Court had been raised in their counter before the Labour Court in the year 1987 itself and Ex.M.37 had been marked in evidence immediately thereafter and dealt with as a preliminary issue in 1990. The attitude of the respondent raising such a contention in the year 2003 that Ex.M.37 may not be appropriate Bylaw, is very unfortunate and cannot at all be appreciated. Even so, while this writ petition was part heard on 16.6.2003, to enable the counsel for the respondent to produce the Bylaws which would be the appropriate one according to him, I had adjourned the hearing by two weeks with a specific direction that the respondent may produce the Bylaws and that no further adjournment would be granted. Again on 2.7.2003, hearing was adjourned finally by one more week. On 18.7.2003, on further request, hearing was adjourned to 23.7.2003, on which date, again adjourned to 2 5.7.2003. On 25.7.2003 again at request of learned counsel for the respondent, case was adjourned finally by one week specifically for the production of Bylaws. On 1.8.2003, there was no representation on behalf of the respondent. Learned Senior counsel for the petitioner filed a typed set of papers containing Bylaws with amendments in the year 1977, with the original and made his sub missions on the said Bylaws which will be dealt with below. It is sufficient to point out that in spite of adjournments on more than three or four occasions, there was no attempt on the part of the respondents to produce the copy of the Bylaw which according to him, would have been relevant at the point of time when action was initiated against the petitioner. As pointed out earlier, the very contention was not only belated, but also hypothetical and a surmise in nature.

(V) A perusal of the old Bylaws now produced before me discloses that except for change in the serial numbers of Bylaws, there is no variation in the contents. Clause 27(b) of the Bylaws under Ex.M.37 appears to correspond to Clause 25 of the old Bylaw. Clause 25 (1) (a), (b) and (c) are as follows categorising Secretary as an officer of the Society.

"Officers of the Society:

25. (1) Subject to such resolutions as the Committee may from time to time pass, the several officers of the Society shall have the powers mentioned below:

(a) The President shall have a general control over the affairs of the Society. He shall have the power to appoint all the member of the establishment except the Secretary. The conditions of service of these employees shall be regulated by the special By-laws in Appendix I to these By-laws.

(b) The Secretary shall be responsible for the executive administration of the Society subject to the control of the President. He

shall in consultation with the President call for meetings of the Committee. It shall be competent to the Secretary to incur petty contingent expenditure subject to a maximum of Rupees 10 for any item.
(c) The Secretary shall be the officer to sue or to be sued on behalf of the Society and all bonds in favour of the Society shall be in the name of the Secretary. All bonds by the Society shall be executed by three Directors, the President or the Secretary being one of them, provided, however, that when the Society employs a paid Secretary, the President or the Treasurer shall be one of the three Directors to execute bonds on behalf of the Society."

The above extracted Bylaw in fact discloses that the old Bylaw is loaded more in favour of the Secretary's managerial powers than under Ex.M.37. Under Clause 26, when there is a paid Secretary he alone shall issue receipts for all moneys paid into the Society.

(VI). Under the Special Bylaws while dealing with the appointment of the Secretary, it is stated that no appointment by direct recruitment to the post of Secretary shall be made except by inviting applications by advertisement in some leading dailies, but such restrictions will not apply to the appointment of an "Officer" whose services have been lent by Government or by the Tamil Nadu Co-operative Housing Society Limited. In other words if a Secretary is to be appointed on deputation from other Departments, he has to be an Officer. The post of Secretary is therefore, not only equivalent to the post of an Officer as defined under the Tamil Nadu Co-operative Societies Act, referred to earlier, but also an officer as understood among Civil Services.

(VII). When the hierarchy of the Society is examined even in the light of the old Bylaws now produced, it is seen that all other officers and servants, such as Manager, Head Clerk, Accountant, Supervisor, Cashier, Clerk, Typist-cum-Clerk are placed below the Secretary. It is the Secretary who is the Authority competent to sanction Casual Leave for all the categories of employees. Under Clause 11(a), for all the aforesaid categories, the Secretary is the authority empowered to impose punishment of censure and withholding all increments. Under Clause 11(c) dealing with the disciplinary action against the Secretary, the Appellate Authority in the case of minor punishments, is the Board of Directors and the President of the Apex Society is the Appellate Authority for major punishment, whereas in respect of all other categories it is the President of the Society and the Board of Directors respectively.

7. Therefore, there is absolutely no variation between the old and new Bylaws and in fact the old Bylaws as prevailing in the year 1970, the Secretary had even a more powerful role to play namely, he was entitled to call for the meetings in consultation with the President. Therefore, the contention of learned counsel for the respondent, that Ex.M.37 might not have been relevant for the period when action was taken against the respondent, does not appear in any manner to help the employee/respondent. I am therefore, inclined to hold that the above materials overwhelmingly establish that the Secretary is the Chief Executive and it is the highest Executive post of the Society. He belongs to the Officer cadre under Section 2(19) of the Tamil Nadu Co-operative Societies Act. The nature of the duties are purely

managerial and administrative and all the other categories of the staff right from Assistant Secretary, Manager, Supervisor, Head Clerk, etc., down to the peons, work under the Secretary's administrative control. There are only non-officials above the cadre of Secretary namely, the President and the Board of Directors who are subject to periodical change due to elections and nominations. It is the Secretary who heads and runs the executive administration and exercises managerial control over all the staff. In the above background the conclusion of the Labour Court in its preliminary order dated 6.2.1990 is totally unsustainable and irrational. The Labour Court appears to have been carried away by the submission that the Secretary has no power of appointment of the staff and that he cannot take any disciplinary proceedings against any one of them. The said reason is erroneous. Firstly a person working in managerial capacity need not have the power of appointment and dismissal. A Deputy Secretary in the Government Department/Secretariat does not have either of the said powers. Likewise in a private establishment it is easy to perceive of many posts which are undoubtedly in the managerial category, but they are not involved in the process of appointment or disciplinary proceedings against the staff. That circumstance alone cannot lead to the conclusion that the said official is not a managerial or administrative authority. Power to appoint or to dismiss is only one particular facet of one variety of managerial posts and all the persons discharging managerial functions need not be involved in the process of appointment or disciplinary proceedings. A Co-operative Society is a democratic institution and under Section 73 of the Tamil Nadu Co-operative Societies Act, the power to appoint is vested only with the Society and Bylaws are also framed vesting the power of appointment only on the Board of Directors or the President. In the scheme of functioning of a Cooperative Society, it is only the said non-official body which is vested with the power of appointment and the said power is never vested with the paid Executive Officers. It consequently follows that the power to take disciplinary proceedings or to impose punishment is also vested only with the appointing authorities. Even so, the Bylaws mentioned above, disclose that the Secretary has the power to impose minor punishments against all officers and servants below himself. Therefore, I am inclined to hold that the approach of the Labour Court is irrational and unacceptable.

8. A further glaring fallacy in the approach of the Labour Court is the incomplete and inadequate analysis of the issue. A perusal of the preliminary order shows that up to the end of paragraph No.6, the Labour Court had dealt with only the mutual contentions. In paragraph Nos.8 and 9, the issue relating to the validity of the domestic enquiry is dealt with. In paragraph No.7 alone, the present issue is dealt with whereunder the Labour Court deals mainly with the powers of appointment and disciplinary action by the Secretary. The issue is abruptly left incomplete and in paragraph No.8, the other issue is taken up. Therefore, the conclusion of the Labour Court on the issue as to whether the Secretary was performing managerial functions or not, is incomplete and based on little or no consideration and even the little discussion is devoted only to the issue as to whether the Secretary had any power to appoint and dismiss the staff. None of the other official functions of the Secretary such as he being the Chief Executive having the control of the entire administration of the Society and all the other officers and the

staff, the Secretary being an officer in terms of Section 2(19) of the Act, the fact that the Society can be sued and can sue only through the Secretary, bonds being executed only in his name etc. as stated above have not at all been taken into account by the Labour Court. Hence the finding thus rendered by the Labour Court is devoid of merits and vitiated by error apparent on the face of the record.

9. In NAGANATH v. COMMON CADRE COMMITTEE (2000-I-L.L.J., 655) a Division Bench of the Karnataka High Court dealt with a similar provision under the Karnataka Co-operative Societies Act, 1959. After analysing the powers and functions of the Secretaries of Primary Agricultural Credit Societies under similar provisions and Bylaws, the Division Bench held that the Secretaries were performing mainly managerial and administrative functions and they were held to be not workmen under the provisions of the Industrial Disputes Act.

10. In THE MANAGEMENT, T.P.SPL.67 GOUNDANPALAYAM PRIMARY AGRL. COOP. BANK LTD. v. THE ASSISTANT COMMISSIONER OF LABOUR & ANOTHER (2003 Writ L.R., 371), V.Kanagaraj,J. had to consider analogous provision under the Tamil Nadu Payment of Subsistence Allowance Act and the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The learned Judge taking note of the fact that the Secretary of the Cooperative Society was classified as an Officer under Co-operative Societies Act, held that there was no question of classifying him as an employee under Section 2(a) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

11. In BIRLA CORPN. LTD. v. RAJESHWAR MAHATO (2001(10) S.C.C., 611), the Supreme Court after quoting Section 2(s) of the Industrial Disputes Act, took note of the expression "mainly in a managerial or administrative capacity" and held that if a person was employed mainly in a managerial and administrative capacity, he would fall under subclause (iii) of Section 2(s) and that the requirement of wages exceeding Rs.1,600/- per mensem would arise only if he was working only in a Supervisory capacity.

12. Therefore, in the present case, it would be totally unreasonable to hold that the Chief Executive of the Society who has below him, a Manager, a Head Clerk, Accountant, Supervisor etc. could be called a "workman" under Section 2(s) of the Industrial Disputes Act. He may be incidentally doing a supervisory or clerical job. But the test is what are the functions which he was "mainly" discharging. Viewed thus, and considering that even the manager and supervisors are below him, it would be idle to contend that the Secretary is not discharging managerial and administrative functions.

13. None of the judgments cited by learned counsel for the respondents is of any help to the employee and they deal with the specific facts relating to those cases and none of them is related to the Secretary/Chief Executive of the Co-operative Society or even any comparable or equal post.

14. In LLOYDS BANK v. PANNA LAL GUPTA (1961 (I) L.L.J., 18) the Supreme Court dealt with a case of Clerks and it was held that they were

not functioning in a Supervisory capacity. In the present case on hand, the question is not whether the functions of a Secretary are supervisory or not . It cannot be disputed that he is much above the Supervisors who are below the Managers who themselves are below the Secretary of the Co-operative Societies.

15. BURMAH SHELL CO. v. STAFF ASSOCIATION & ORS. (1971 (2) S.C.R., 758) is actually a judgment against the claims of the petitioner. Out of six categories of workmen whose status arose for consideration, the Tribunal held all the six categories as workmen. The Supreme Court disagreed and held that four of the six categories namely, Transport Engineer, District Engineer, Foreman and Sales Engineering representative were not workmen. The Supreme Court went into the nature of the duties of each of the category and held that they were technical staff and the small amount of Supervisory work which they carried out was only incidental to their technical work. Even the sales representative, was held to be not a "workman."

16. The judgement in ARKAL GOVIND RAJ RAO v. CIBA GEIGY OF INDIA LTD. (1985 II L.L.J., 401) explains the scope of the definition under Section 2(s) ultimately holding that the dominant purpose of employment should be the determining factor. This observation is more helpful to the management in this case having regard to the nature of the duties assigned to the Secretary under the Co-operative Societies Act and the Bylaws.

17. Reliance was placed on the judgment of the Supreme Court in SHARAD KUMAR v. GOVT. OF NCT. OF DELHI & OTHERS (2002 (4) S.C.C., 490). The facts of the said case once again are irrelevant for considering the nature of the post of a Secretary of the Co-operative Society. That was a case of Area Sales Executive whose nature of duties was nothing more than canvassing sales. He had neither supervisory much less managerial nor administrative functions.

18. For all the aforesaid reasons, I am unable to sustain the claim of the respondent as a workman and it follows that the Labour Court had no jurisdiction to entertain the dispute.

19. The resultant situation is inevitable and the first respondent has to blame himself for this episode. As stated earlier, the objection by the management was taken as early as 1987 and the employee must have seen the clear writing on the wall. There was time enough for him to go before the appropriate authority instead of refusing to see reason and to realise that he was staking his claim before an authority who has no jurisdiction to entertain the dispute. Even after the present writ petition had been filed before this Court, the first respondent does not appear to have evinced positive anxiety or interest for an early disposal of the writ petition. He has been changing his counsel frequently not less than three or four times, as could be seen from the records. Even before me after arguments were over after a few hearings and the hearings concluded and stood adjourned only for the purpose of production of the old Bylaws as requested on employee's behalf, on the last date of hearing a request was made for adjournment for engaging a Senior Counsel which was totally unfair which request I had to turn down. The reason why I am mentioning these facts is

that the first respondent ought to have adopted a more practical and reasonable outlook instead of expecting the Court to ignore the obvious or trying to delay the result. He should have realised at least in 1987 itself that he was proceeding in the wrong direction and before a forum which had no jurisdiction. In fact after the award by the Labour Court, the management had forwarded a letter to the petitioner on 12.10.1994. There appears to have been some talks of compromise in the presence of Joint Registrar and the Management had agreed to reinstate him in service and also offering a sum of Rs.96,5 51/- towards past arrears of salary. But the respondent had declined it on not being satisfied with the quantification of arrears and perquisites due to him. Nonetheless I have on my own given due and anxious consideration to the plight of the first respondent being left without any alternative remedy for which no doubt he has to blame himself. Apart from the fact that this Court cannot go into questions of fact which have to be left to a competent forum to consider the evidence and to record its finding, the management had also complained that before the Labour Court management had not been given full opportunity to examine all their witnesses. It is not possible for this Court itself to go into the evidence. While thus examining the possibility of finding an alternate remedy I find that the only possible alternative is to direct the Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 to deal with the dispute raised by the employee. An appeal under the Tamil Nadu Shops and Establishments Act is possible vide judgment of a Division Bench of this Court in DHAKSHINAMOORTHY v. T.M.K.C.C.B.& ORS. (1996 I L.L.J.,338).

20. Therefore, in order to avoid further time being wasted, the pleadings before the Labour Court may be taken as the pleadings before the Appellate Authority under the Shops Act. However, fresh evidence has to be taken before the said authority and the management also alleges that after the Labour Court gave its finding on the preliminary issues, the enquiry was abruptly closed in view of the directions of the High Court to conclude the enquiry within a time frame and that the request of the management to examine a witness had been turned down. Whether the said grievance is true or not, in view of the fact that the enquiry at any rate has to be undergone before a different authority, it follows that both sides have to adduce evidence afresh before that authority.

21. In the result, I am inclined to dispose of the writ petition with the following directions:-
(i) The first respondent is not a workman and hence the dispute raised by him before the Labour Court is not maintainable and hence the impugned award of the Labour Court is set aside.
(ii) The records will be sent to the Deputy Commissioner of Labour (Appellate Authority) under the Shops and Establishments Act, 1947, Chennai, to deal with the dispute raised by the first respondent/ employee as an appeal under Section 41(2) of the Tamil Nadu Shops and Establishments Act.
(iii) The Appellate Authority is directed to treat the pleadings before the Labour Court as pleadings under Section 41 of the Act and if necessary give opportunity to both sides to file additional pleadings and also permit both sides to let in oral and documentary evidence afresh, after returning the exhibits filed before the Labour Court to the respective

parties.
(iv) The Appellate Authority is directed to deal with the proceedings as an appeal under Section 41(2) of the Shops and Establishments Act strictly in terms of the said provision and to completely ignore and eschew the findings or observations rendered by the Labour Court in any of its orders.
(v) The Appellate Authority is directed to complete the enquiry and pass final orders in accordance with law within a period of four months from the date of receipt of a copy of this order along with the connected records.
(vi) The writ petition is disposed of subject to the above observations. No costs.

Index: Yes.
Internet : Yes.

sai/-

To

1. The Presiding Officer,
Labour Court,
Vellore.

2. The Deputy Commissioner
of Labour,
Chennai. (with a copy
of this order).